

Appeal from the decisions of the Eastern States Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offers for acquired lands. ES 30892 through ES 30896.

Affirmed.

1. Oil and Gas Leases: Acquired Lands Leases -- Oil and Gas Leases: Discretion to Lease -- Oil and Gas Leases: Lands Subject to

Noncompetitive oil and gas lease offers for acquired lands in Michigan were rejected because the mineral estates were reserved when the land was conveyed to the United States. Where the offeror subsequently fails, on appeal, to provide any evidence to show rights to the oil and gas deposits have since vested in the United States by operation of law, the lease offers were properly rejected.

APPEARANCES: Douglas A. Pugh, Esq., Lachine, Michigan, for appellant.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

PMG has appealed from decisions of the Eastern States Office, Bureau of Land Management (BLM), rejecting noncompetitive oil and gas lease offers for acquired land, ES 30892 through ES 30896. The decisions rejected appellant's offers for the reason the mineral rights in the requested lands are not Federally owned, having been reserved by those who conveyed the land to the United States.

BLM must reject an oil and gas lease offer made for lands not available for oil and gas leasing when it appears the mineral estate in the land is not owned by the United States. See, e.g., Golden Eagle Petroleum, 67 IBLA 112 (1982). Although this principle is applied most often in cases involving land which has been patented without a mineral reservation to the United States, it applies where land has been reconveyed to the United States when the grantor has reserved the mineral estate. Space Investors, Inc., 75 IBLA 183 (1983).

In its statement of reasons, appellant asserts the oil and gas rights in these acquired lands have reverted to the United States as surface owner pursuant to a Michigan statute. This state law provides for the termination of oil and gas interests in land owned by persons other than the owners of the surface, and for the vesting of title to those interests in the surface owner. The statute relied upon requires the owner of oil and gas rights which are severed from surface ownership to do one of a number of enumerated acts in order to avoid a statutory presumption of abandonment. Those acts are the sale, lease, mortgage, or transfer of the oil and gas interest, issuance of a drilling permit, actual production or withdrawal of oil or gas, the use of such interest in underground gas storage operations, or recordation of a claim of interest. Mich. Comp. Laws § 554.291 (Mich. Stat. Ann. § 26.1163(1) (Callaghan 1982)). When the oil and gas interest is abandoned under the statute, it "shall vest as of the date of such abandonment in the owner or owners of the surface in keeping with the character of the surface ownership." Id.

Where title to land is in dispute, this Board has remanded to BLM "to reexamine whether the subject land is fact available for oil and gas leasing." Douglas H. Wilson, 58 IBLA 115, 116 (1981). In such a case, however, the offeror has submitted evidence to indicate title to the mineral estate may be in the United States. See, e.g., A. N. Henderson, 30 IBLA 8 (1977).

Here, in contrast, appellant has provided no evidence to show the owners of the mineral interests in these lands have failed to do acts necessary to prevent vesting of rights to their oil and gas deposits in the United States as surface owner. In Space Investors, Inc., supra at 184, we found that when the title to land is in dispute, the Secretary may properly exercise his discretion to reject an oil and gas lease offer for such land, without reference to the merits of the dispute or the quality of title asserted by the United States. See Lee E. McDonald, 68 IBLA 272 (1982); Samson Resources Co., 55 IBLA 51, 54 (1981). The burden to "establish the eligibility of the tract for leasing" is on the lease offeror. Don Jumper, 24 IBLA 218 (1976).

[1] We concluded in Space Investors, Inc., supra, in such cases as these, that a BLM decision rejecting a noncompetitive oil and gas lease offer for acquired lands should be affirmed on appeal where the offeror fails to provide evidence to show rights to the oil and gas deposits have vested in the United States by operation of the Michigan statute. Appellant's failure to provide evidence tending to show Federal ownership of the oil and gas requires a similar result here. Cf. Douglas A. Pugh, 77 IBLA 126 (1983) (in which the Board remanded to BLM a similar appeal when appellant provided some evidence in support of his contention that the oil and gas rights became vested in the United States pursuant to the Michigan statute.)

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Franklin D. Arness
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

James L. Burski
Administrative Judge

